

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

903 FIRST APPEAL NO.659 OF 2005

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| 1) Bhagwan Chhagan Sonawane
Age: 47 yrs., Occu.: Agriculturist

2) Umitabai w/o Daga Sonawane
Age: 40 yrs., Occu.: Agriculturist

3) Manik Chhagan Sonawane
Age: 41 yrs., Occu.: Agriculturist
All R/o. Gopalpur, Tal.Taloda. | ..Appellants
(Original Claimants) |
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Versus

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| 1) The State of Maharashtra,

2) The Special Land Acquisition Officer,
Nandurbar.

3) The Executive Engineer, Sardar
Sarovar Project, Nandurbar. | ..Respondents
(Original Opponents) |
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...
 Advocate for Appellants : Shri R.M.Deshmukh
 AGP for Respondent – State : Shri S.J.Salgare
 Respondent Nos.2 & 3 served

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CORAM : P.R.BORA, J.

DATE: 25th January, 2019

ORAL JUDGMENT:-

1 The original claimants in Land Acquisition Reference (LAR) No.13 of 2002 decided by the Court of Civil Judge, Senior Division, Shahada on 18.10.2003, have preferred the present appeal seeking enhancement in the amount of compensation as has been awarded by the said Court.

2 The land, which is the subject matter in the present appeal, was acquired for the purpose of rehabilitation of village Gopalpur, Tq.Taloda, Dist.Nandurbar. The Notification under Section 4 of the Land Acquisition Act, 1894, in that regard was published on 30.08.2001 and the award under Section 11 came to be passed on 02.05.2002. The Special Land Acquisition Officer (SLAO) had offered the compensation @ Rs.45,000/- per hectare. Dissatisfied with the amount of compensation so offered, the claimants preferred an application under Section 18 of the Act, which was adjudicated by the Court of Civil Judge, Senior Division, Shahada (hereinafter referred to as 'the Reference Court'). In the Reference Court the claimants had claimed the compensation @ Rs.1,50,000/- per hectare. The learned Reference Court, after having assessed the evidence on record, determined the market value of the acquired land @ Rs.1,00,000/- per hectare and accordingly enhanced the amount of compensation. According to the claimants, the Reference Court also has not awarded adequate compensation and hence, they have preferred the present appeal.

3 Shri R.M.Deshmukh, learned Counsel for the appellants – claimants submitted that though sufficient evidence was adduced before the Reference Court evidencing that subject land was being irrigated through the water taken from Padalpur Tank and the concerned 7/12 extracts were placed on record, the Reference Court has failed in considering the said evidence. The learned Counsel further submitted that two sale instances were placed on record wherein the dry land had received the rate of Rs.82,500/- per hectare. The learned Counsel submitted that the subject land being irrigated land, double of the said amount must have been awarded by the Reference Court in the present matter. The learned Counsel, therefore, sought enhancement in the amount of compensation.

4 Shri S.J.Salgare, learned AGP opposed the submissions made on behalf of the appellants – claimants. The learned AGP supported the impugned Judgment. The learned AGP pointed out that the Reference Court has observed that the appellants – claimants did not bring on record sufficient evidence in order to prove that the subject land was perennially irrigated or seasonally irrigated land. The

learned AGP, in the circumstances, prayed for dismissal of the appeal.

5 I have carefully perused the evidence on record. From the evidence on record, I am fully satisfied that the subject land was semi-irrigated land and as such the compensation was liable to be paid accordingly. Considering the sale instances, which were relied upon by the claimants, the semi-irrigated land was liable to receive the market value approximately in the rate between Rs.1,20,000/- to Rs.1,50,000/- per hectare. The Reference Court though, in the present matter has awarded compensation @ Rs.1,00,000/- per hectare holding the acquired land to be dry land, It is apparently revealed that the Reference Court has awarded the compensation to the Potkharab land ad-measuring 97 Are at the same rate. Admittedly, Government has not preferred any appeal.

6 Considering the facts as aforesaid, though, I found that appellants - claimants are entitled to receive some more price for the land, which has to be held as semi-irrigated land, in view of the fact that for about 97 Are, the

compensation has been awarded at the rate payable to the dry land, it does not appear to me that any more compensation needs to be awarded in the present matter. I, therefore, do not see any reason to cause any interference in the Judgment and award so passed. In the result, the following order is passed:-

ORDER

The Appeal is dismissed, however, without any order as to the costs.

(P.R.BORA)
JUDGE

SPT